IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

LA.App..No. 598 of 2004(D)

LAR.155/2002 of PRL.SUB COURT,KOTTAYAM
.....

APPELLANT: RESPONDENT;

STATE OF KERALA.

BY GOVERNMENT PLEADER SRI.K.V.MANOJKUMAR.

RESPONDENTS: CLAIMANT:

FR.GEORGE, VICAR, ST.SEBASTIAN CHURCH,
VAKKADU,NJEEZHOOR VILLAGE, VAIKOM.

BY ADV. SRI.RAJEEV V.KURUP

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & K.T.SANKARAN, JJ.

L.A.A.No.598 of 2004

Dated 8th March, 2007.

J U D G M E N T

Kurian Joseph, J.

This appeal is directed against the judgment and decree in L.A.R.No.155/02 on the file of the Sub Court, Kottayam. The acquisition was for the purpose of Kuravilangad Major Distributory. Section 4(1) notification was issued on 30.3.1999. The Land Acquisition Officer fixed the land value at the rate of Rs.8,642/- per Are. That was enhanced by Rs.5,185/- per Are. The claimant produced Ext.A1 document. On detailed discussion regarding the similarity and the common features, the reference court concluded that the document cannot be accepted in evidence so as to sustain the enhancement as claimed by the claimant. It was held in the judgment that "In the light of the evidence and the entire materials available it has to be concluded that Ext.A1 and the land involved in deed No.2346/98 are not acceptable since the lands therein cannot be treated as similar with the acquired land herein." Despite such a finding, the reference court made a passing observation that ..."the land is having high potentialities....." ...."the land is fertile and not far

away from important institutions...” What is the basis of such findings is not clear from the judgment. Despite the rejection of the evidence adduced by the claimant, in case the land value is to be enhanced, there has to be proper justification on the basis of appreciation of the evidence available on record. Bereft of that, we are convinced that the judgment cannot be sustained and the matter requires reconsideration by the reference court. Accordingly, we allow the appeal, set aside the judgment and decree in L.A.R.No.155/02 on the file of the Sub Court, Kottayam and remit the matter to the reference court for fresh consideration. The case shall be disposed of within a period of six months from the date of receipt of a copy of the judgment. In the interests of justice, we make it clear that it will be open to the parties to adduce fresh evidence.

KURIAN JOSEPH, JUDGE.

K.T.SANKARAN, JUDGE.

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KURIAN JOSEPH & K.T.SANKARAN, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 8th March, 2007.